

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
BEAUMONT DIVISION

GARY W. DUHON §  
VS. § CIVIL ACTION NO. 1:18-CV-310  
SHERIFF, JASPER COUNTY JAIL §

MEMORANDUM ORDER OVERRULING OBJECTIONS AND  
ADOPTING THE MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION

Petitioner, Gary W. Duhon, a pre-trial detainee currently confined at the Jasper County Jail, proceeding *pro se*, filed this petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241.

The Court referred this matter to the Honorable Zack Hawthorn, United States Magistrate Judge, at Beaumont, Texas, for consideration pursuant to applicable laws and orders of this Court. The Magistrate Judge recommends the petition be dismissed for failure to exhaust administrative remedies.

The Court has received and considered the Report and Recommendation of United States Magistrate Judge filed pursuant to such order, along with the record, and pleadings. Petitioner filed objections to the Report and Recommendation of United States Magistrate Judge. This requires a *de novo* review of the objections in relation to the pleadings and applicable law. *See FED. R. CIV. P. 72(b).*

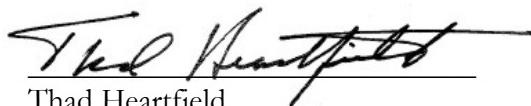
After careful consideration, the Court finds the objections lacking in merit. Petitioner has not satisfied the exhaustion requirement as to the claims presented or shown that he should be excused from the exhaustion requirement by demonstrating exceptional circumstances warranting federal institution at this juncture. Accordingly, pretrial habeas interference by this Court is not authorized. *See Braden v. 30th Jud. Cir. Ct. of Ky.*, 410 U.S. 484, 493 (1973). After the state proceedings are concluded, federal habeas proceedings can be instituted by petitioner after he has exhausted his state remedies. This petition will be dismissed without prejudice to his right to seek

federal habeas corpus relief after the state proceedings are concluded. Under the circumstances, dismissal is appropriate. *See Deters v. Collins*, 985 F.2d 789, 797 (5th Cir. 1993).

ORDER

Accordingly, petitioner's objections are **OVERRULED**. The findings of fact and conclusions of law of the Magistrate Judge are correct, and the report of the Magistrate Judge is **ADOPTED**. A Final Judgment will be entered in accordance with the recommendations of the Magistrate Judge.

**SIGNED** this the 2 day of January, 2019.



Thad Heartfield  
United States District Judge